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2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
5 ADRIAN SCHOOLCRAFT,

6 Plaintiff,

Case No:

7 - against -

10 CV 06005

8 THE CITY OF NEW YORK, ET AL.,

9  
10 Defendants.

11 -----X  
12 111 Broadway  
New York, New York

13 July 24, 2014

14 12:11 p.m.

15  
16  
17 DEPOSITION OF ALAN COOPER, pursuant to  
18 Notice, taken at the above place, date and  
19 time, before DENISE ZIVKU, a Notary Public  
20 within and for the State of New York.  
21  
22  
23  
24  
25

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2 the structure of IAB. It's really  
3 important to this case. So you could  
4 talk to your witness.

5 MS. PUBLICKER METTHAM: But you  
6 did not ask for structure. You asked  
7 about how they performed their duties.

8 MR. SMITH: You want to talk  
9 with your witness.

10 MS. PUBLICKER METTHAM: Well,  
11 what are you getting at in terms of  
12 intelligence section and how it gathers  
13 it's information? So I know whether  
14 this is a law enforcement privilege or  
15 not.

16 MR. SMITH: All right, we'll do  
17 it this way.

18 Q. The notice of deposition has  
19 been marked as 154. It has three sections  
20 that I understand you're here it testify  
21 about. The first one is D, "The policies  
22 and practices of the City of New York  
23 regarding the protection of members of the  
24 NYPD from retaliation by other members of  
25 the NYPD." Have you seen the notice of

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2 deposition before?

3 A. I have to look at it in order to  
4 be able to determine that.

5 Q. I am showing you what's been  
6 previously marked as 154, have you ever seen  
7 that document before?

8 A. Yes, I believe so.

9 Q. Are you here to testify on  
10 section D, the one I just read to you as the  
11 City witness on that subject matter?

12 A. I believe so, yes.

13 Q. Section E provides for a witness  
14 to appear and testify about "The  
15 disciplinary actions, if any, taken by the  
16 City of New York against members of the NYPD  
17 for retaliation against members of the  
18 NYPD." See that section?

19 A. Yes.

20 Q. Are you here to testify as a  
21 City witness on that section?

22 A. I believe so, yes.

23 Q. Then K on the next page of the  
24 document is another subject matter that I  
25 believe was scheduled for today. K says

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2 that the subject matter is: "The policies  
3 and practices of the internal affairs bureau  
4 and the quality assurance division in  
5 connection with how IAB and QAD conducts  
6 investigations of alleged willful conduct by  
7 supervisors made by other members of the  
8 NYPD and how the various groups within the  
9 IAB have different areas within their  
10 respective jurisdictions and the formation  
11 of by the NYPD and the implementation and  
12 the recommendations by the crime reporting  
13 review committee." You see that section?

14 A. Yes.

15 Q. Are you here to provide  
16 testimony as a City witness on section K  
17 that I just read to you?

18 A. Yeah, but it actually says  
19 groups with the IAB not groups within, as  
20 you indicated.

21 Q. Okay. I misread it.

22 MS. PUBLICKER METTHAM: And I  
23 will also note that he is not here to  
24 testify about the formation by the NYPD  
25 and implementation of the

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2 MS. PUBLICKER METTHAM: We're  
3 talking about 2007 to 2010.

4 A. There are a majority of the  
5 lines in the command center are taped lines,  
6 okay. So if you call the general number  
7 that will be a taped line, but in order to  
8 help support getting information about  
9 corruption, misconduct within the police  
10 department, we also have non-taped lines.  
11 We would call them the pride line or corrupt  
12 line. Those names refer to the phone  
13 numbers. It's 1-800-PRIDE PD or  
14 1-212-CORRUPT, the letters corrupt. If you  
15 call in there -- if we advertise within the  
16 precinct that you can call in anonymously.  
17 So you can call into the command center to  
18 one of those two numbers and that's a  
19 non-recorded line.

20 Q. When somebody or when an officer  
21 or member of service calls in, are they  
22 required to identify themselves by name or  
23 some other means or do they always have the  
24 option of remaining anonymous?

25 MS. PUBLICKER METTHAM:

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2 Objection. You can answer.

3 A. They have the option of  
4 remaining anonymous. That would help  
5 protect their identity.

6 Q. Is that an important thing?

7 MS. PUBLICKER METTHAM:

8 Objection. You could answer.

9 A. Yes.

10 Q. Why?

11 MS. PUBLICKER METTHAM:

12 Objection. You could answer.

13 A. These investigations are  
14 confidential. We would like to protect  
15 those members of service who come forth with  
16 information about misconduct and corruption.

17 Q. What's your year of birth?

18 MS. PUBLICKER METTHAM:

19 Objection. You can answer.

20 A. 1960.

21 Q. What's your highest level of  
22 education?

23 MS. PUBLICKER METTHAM:

24 Objection. You can answer.

25 A. I have a bachelorette degree.

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2 same page with you, but the EEO issues that  
3 deal with investigations into reports of  
4 discrimination based on sex or gender --

5 A. Yes.

6 Q. -- or one of the other protected  
7 categories; is that right?

8 A. Yes.

9 Q. In the note on the first page of  
10 205-38 it says: "Any member of the service  
11 who is made aware of an allegation of  
12 retaliation for reporting wrongdoing shall  
13 make reasonable efforts to protect the  
14 anonymity and confidentiality of the  
15 employee making the allegation." You see  
16 that?

17 A. Yes.

18 Q. Does that note govern how a  
19 member of IAB conducting the investigation,  
20 does that note apply to that investigation?

21 MS. PUBLICKER METHAM:

22 Objection. You can answer.

23 A. Yes.

24 Q. In what way does IAB make  
25 reasonable efforts to protect anonymity and



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2 confidentiality of the employees making  
3 allegations to it?

4 MS. PUBLICKER METTHAM:

5 Objection. You can answer.

6 A. Maintaining the anonymity of a  
7 member of the service reporting such  
8 corruption or misconduct regardless of  
9 whether it's for retaliation or otherwise,  
10 it is the priority of internal affairs  
11 bureau to keep their identity as secret as  
12 possible in order to avoid retaliation, in  
13 order to prevent retaliation where possible.

14 Q. Protect them from what?

15 MS. PUBLICKER METTHAM:

16 Objection. You can answer.

17 A. Protect them from acts of  
18 retaliation.

19 Q. What kinds of acts of  
20 retaliation are you referring to?

21 MS. PUBLICKER METTHAM:

22 Objection.

23 A. Any kind.

24 Q. So we are talking about transfer  
25 or a physical act of violence, anything?



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2 MS. PUBLICKER METTHAM:

3 Objection. You could answer.

4 A. It could run the gamut, yes,  
5 anything.

6 Q. How does IAB go about  
7 maintaining anonymity of people reporting  
8 misconduct?

9 MS. PUBLICKER METTHAM:

10 Objection. You can answer.

11 A. First of all, our investigations  
12 are confidential. The access to these cases  
13 are very, very limited within IAB and even  
14 within IAB, the access is limited. Not  
15 everybody in IAB has access to all the cases  
16 in IAB. So that's an initial protection.  
17 The investigators would strive not to  
18 contact the complainant at their work site.  
19 They would try to call them or contact them  
20 outside of the normal work environment in  
21 order that they're not seen or heard or  
22 thought to be speaking with IAB or making  
23 these such allegations. We would endeavor  
24 to take those types -- undergo those efforts  
25 to maintain the anonymity of the

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2 complainant.

3 Q. Why would not calling the work  
4 place maintain their anonymity?

5 MS. PUBLICKER METTHAM:

6 Objection.

7 A. Ask that again.

8 Q. Yeah. I think you said that one  
9 of the ways that IAB protects members  
10 anonymity is by not calling them at their  
11 command. I think that's what you said.

12 A. Right.

13 Q. Why would calling them at their  
14 command reveal their anonymity?

15 MS. PUBLICKER METTHAM:

16 Objection. You could answer.

17 A. So, if IAB was to call the desk  
18 of the 99th Precinct and say hi, this is the  
19 internal affairs bureau, we would like to  
20 speak to the officer who called in the  
21 complaint. That would probably divulge that  
22 officer was speaking with IAB. So we avoid  
23 doing that.

24 Q. How would IAB avoid doing that?

25 MS. PUBLICKER METTHAM:

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2 Objection. You could answer.

3 A. In most instances by trying to  
4 not do it. To not contacting the  
5 complainant or the reporter at his place of  
6 employment.

7 Q. Do you agree with me that a  
8 member of the service, who witnesses  
9 misconduct or corruption and then reports it  
10 is put in a awkward position, where they  
11 have to comply with their obligation and  
12 report misconduct, but at the same time be  
13 concerned about being viewed as a rat?

14 MS. PUBLICKER METTHAM:

15 Objection. You can answer.

16 A. Just repeat it.

17 MR. SMITH: Would you mind just  
18 repeating that question.

19 (Record read.)

20 MS. PUBLICKER METTHAM: I'm  
21 going to object again that this is not  
22 an appropriate question for a 30(b)(6)  
23 witness, but I will allow the witness  
24 to answer.

25 A. Yes.

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2 Q. Why is that?

3 MS. PUBLICKER METTHAM:

4 Objection.

5 Q. Or explain that to me?

6 MS. PUBLICKER METTHAM:

7 Objection.

8 A. Someone who's reporting  
9 corruption or misconduct on his peers knows  
10 that he has to continue to work with his  
11 peers. Any human being would be concerned  
12 that if his peers found out that if I was  
13 giving some confidential information up  
14 about you or reporting your misconduct, then  
15 your treatment of me, whether it be from a  
16 peer or supervisory relationship might be  
17 impacted.

18 Q. How might it be impacted?

19 MS. PUBLICKER METTHAM:

20 Objection. Again, this is well beyond  
21 the scope.

22 A. Could be impacted in any number  
23 of ways. You may no longer wish to speak  
24 with me. You may no longer wish to be my  
25 friend or if it's on a supervisory

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2 subordinate level, you may impact my work  
3 habits -- not my work habits, my work  
4 situation or my tours or any number of  
5 things that a supervisor might in the  
6 position to control regarding my life.

7 Q. The last page of the patrol  
8 guide procedures that you have in front of  
9 you says "Members of the service who  
10 voluntarily provide information to assist us  
11 in internal/external investigations should  
12 be acknowledged for their high acts of  
13 integrity." You see that?

14 A. Yes.

15 Q. Can you explain to me why the  
16 patrol guide procedure refers to the  
17 reporting of misconduct or corruption as a  
18 high act of integrity?

19 MS. PUBLICKER METTHAM:

20 Objection. The witness is not here to  
21 testify about deliberative process or  
22 why any information is included in the  
23 patrol guide. I will allow him to  
24 answer to the extent he knows.

25 A. I don't really know why that's

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2 Q. And then on the last page of  
3 this document there is this here retaliation  
4 case investigative steps?

5 A. Right.

6 Q. Do you know where the  
7 information that's collected under that  
8 heading was obtained?

9 MS. PUBLICKER METTHAM:

10 Objection. You could answer.

11 A. Says it right there, Lieutenant  
12 Henry conferred with D. I. DiBartolomeo and  
13 D. I. Lorenzo.

14 Q. And who are those individuals?

15 A. D. I. DiBartolomeo is the  
16 commanding officer, so the special  
17 investigation group otherwise known as group  
18 one. D. I. Miriam --

19 MS. PUBLICKER METTHAM: Slow  
20 down.

21 A. Want me to go back -- D. I.  
22 Lorenzo is the commanding officer of group  
23 53, which is the group that covers school  
24 safety agents.

25 Q. Okay, so am I correct that in

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2 retaliation cases the number one concern  
3 should be the protection of the victim?

4 MS. PUBLICKER METTHAM:

5 Objection. You could answer.

6 A. That's what's on the document as  
7 written. Yes, that is a very, very high  
8 priority in our investigations. I'm not  
9 saying that -- that's not my wording.  
10 That's the wording that was used either by  
11 DiBart or by Lorenzo --

12 Q. My question is do you agree with  
13 it?

14 A. Absolutely.

15 Q. And then it also says here that  
16 you shouldn't interview the CV or the  
17 complaining --

18 A. Complainant victim.

19 Q. Complaining victim?

20 A. Complainant or victim or.

21 Q. But you should not do that under  
22 the PG, do you agree with that?

23 MS. PUBLICKER METTHAM:

24 Objection. You could answer.

25 A. Case-by-case.



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2 Q. It says here also --

3 A. That goes towards maintaining  
4 that victim or complainant's  
5 confidentiality.

6 Q. It also says in this second  
7 bullet here "Never call permanent command  
8 looking for the C/V." Do you agree with  
9 that?

10 MS. PUBLICKER METTHAM:

11 Objection. You could answer.

12 A. Right. Never is an extremely  
13 strong word. It wouldn't have been the word  
14 that I used, but yes, we endeavor not to  
15 call the command as I explained previously  
16 in this deposition to alert any other  
17 members of that command that the officer  
18 may be speaking or making a complaint to the  
19 internal affairs bureau in order to  
20 maintain, you know, to his confidentiality  
21 or hers.

22 Q. Okay. Well, you might not agree  
23 with the use of the word never, but do you  
24 agree with the spirit of the idea that under  
25 only extremely rare circumstances would you

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2 call the permanent command to look for the  
3 complainant victim. Do you agree with that?

4 MS. PUBLICKER METTHAM:

5 Objection. You could answer.

6 A. Yes. It would be best if you  
7 were able to contact the complainant via  
8 other methods.

9 Q. And was this part of this  
10 document based on any standard operating  
11 procedures of IAB or was it based on the  
12 collective knowledge and experience of the  
13 individuals referred to it IAB, Lieutenant  
14 Henry and Deputy Inspectors DiBartolomeo and  
15 Lorenzo?

16 MS. PUBLICKER METTHAM:

17 Objection. You could answer.

18 A. By and large it comes out of  
19 their experience just pulling together some  
20 little bullets for what they would do in  
21 particular for retaliation cases. They  
22 handle quite a few of them.

23 Q. And you reviewed this document  
24 before appearing here today, right?

25 A. Yes.

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2 Q. And you knew it was being  
3 produced to me?

4 A. Yes.

5 Q. Is there anything in here that  
6 you think should be corrected?

7 MS. PUBLICKER METTHAM:

8 Objection. You could answer.

9 A. As I read it in the past before  
10 today's meeting, I believe it all would be  
11 quite accurate. I can't say that there's  
12 nothing in here that's not accurate or  
13 shouldn't be corrected.

14 MR. SMITH: Thank you, Chief. I  
15 don't have any more questions at this  
16 time.

17 MS. PUBLICKER METTHAM: I have  
18 one clarifying question.

19 EXAMINATION BY

20 MS. PUBLICKER METTHAM:

21 Q. Chief, under what circumstances  
22 would you have to contact a complaining  
23 victim at his permanent command?

24 A. In a situation -- obviously, you  
25 know, we're charged with conducting the

1                   ALAN COOPER

2    investigation. We have to conduct the  
3    investigation. The investigation has to  
4    move forward. We encounter some situations  
5    where the complainant becomes uncooperative.  
6    The complainant who called in the complaint  
7    in the first place and initiated an  
8    allegation of serious misconduct or  
9    retaliation, that's the person with the  
10   information. They're making serious  
11   allegations as a member of the service,  
12   they're going to, at some point, need to  
13   speak with us. We sometimes experience  
14   complainants who, upon their own reflection,  
15   become uncooperative, but they still need to  
16   speak with us. We don't like to do it that  
17   way. We like to maintain confidentiality.  
18   We think that's extremely important, but  
19   there may come a time that we would be  
20   forced by the complainant's own actions to  
21   contact them in an official manner.

22           Q.       And if there were no current  
23   phone number for the complaining victim on  
24   their ten card, would that be a circumstance  
25   which you would contact the individual at